

REMARKS

Entry of the present preliminary amendment is respectfully requested prior to examination on the merits. Applicant appreciates the Examiner granting a telephone interview with Applicant's representative, Paul J. Kroon, Jr., Esq., on April 6, 2006. During said telephone interview, the merits of the outstanding restriction requirement were discussed. Applicant directs the Examiner's attention to MPEP § 803 which states, in relevant part,

Under the statute [35 U.S.C. § 121] an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent or distinct. If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. (Internal citations omitted.)

Accordingly, Applicant submits that it is never proper to require restriction between two or more inventions *unless* the inventions as claimed are patentably distinct from each other and able to support separate and distinct patents.

Per said telephone interview, Applicant has amended independent claim 32 as suggested by the Examiner. All the amendments of the AMENDMENT AFTER NOTICE OF NON-COMPLIANT

In re: Thomas Zickell
Filed: July 3, 2001
Serial No.: 09/898,707
Page 11

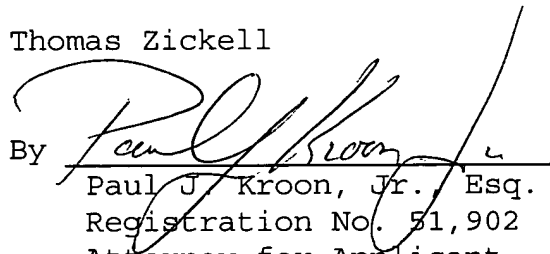
AMENDMENT UNDER 37 C.F.R. § 1.121 filed April 5, 2006 have been repeated.

Accordingly, reconsideration and withdrawal of the restriction requirement is respectfully requested. The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

Respectfully submitted,

Thomas Zickell

By



Paul J. Kroon, Jr., Esq.
Registration No. 51,902
Attorney for Applicant
BOURQUE & ASSOCIATES, P.A.
835 Hanover Street, Suite 301
Manchester, New Hampshire 03104

Telephone: (603) 623-5111
Facsimile: (603) 624-1432

Date: April 7, 2006